

RETURN DATE: APRIL 30, 2019

CHARLES GIAMPAOLO	:	SUPERIOR COURT
	:	
Plaintiff,	:	J.D. OF LITCHFIELD
	:	
v.	:	AT TORRINGTON
	:	
ELEVATOR SERVICE CO, INC.,	:	
	:	
Defendant.	:	MARCH 25, 2019
	:	

COMPLAINT

I. INTRODUCTION

1. Elevator Service Co., Inc. (“ESCO”) demoted and constructively discharged Charles Giampaolo one day after he complained that the company was treating him in an abusive manner ever since he shared with leadership that he was suffering from Post-Traumatic Stress Disorder (“PTSD”).

2. On October 1, 2017, Mr. Giampaolo his wife and his wife’s parents, aunt and cousin were victims of the mass shooting at the Route 91 Harvest Music Festival in Las Vegas, Nevada. Mr. Giampaolo’s father-in-law, who was gunned down inches away from Mr. Giampaolo, was among the 58 people who were murdered that night. Mr. Giampaolo’s wife’s aunt and cousin were also shot.

3. Mr. Giampaolo went back to work within three weeks of the massacre. For the first time in his life, he began experiencing panic attacks, claustrophobia, sleeplessness and anxiety. He consulted with a therapist and was diagnosed with PTSD.

4. The following month, Mr. Giampaolo attended a work event with nearly 800 people, loud music and strobe lights. His palms sweated, his heart rate escalated, and he felt as if the walls were closing in.

5. ESCO Owners Stephen and Linda Roth were both present at the event. Mr. Giampaolo told them he was diagnosed with PTSD, was experiencing a panic attack and he ran for the door.

6. After he shared his diagnosis with leadership, ESCO began a campaign to force him out of the company. For the first time in Mr. Giampaolo's almost three-year tenure, Mr. and Mrs. Roth accused Mr. Giampaolo of being "different" and having a "bad attitude." They cut Mr. Giampaolo's commissions without explanation and then stripped Mr. Giampaolo of his managerial duties.

7. The day after Mr. Giampaolo complained to leadership about the "miserable" work environment they created following his PTSD diagnosis, Mr. Roth demoted him. But before he did, Mr. Roth berated Mr. Giampaolo, telling him he should "suck it [the Las Vegas massacre] up" and threatened not to pay Mr. Giampaolo's commissions if he did not. Once again, that now familiar feeling of panic came roaring back. ESCO constructively discharged Mr. Giampaolo's employment.

II. PARTIES

7. The Plaintiff, Charles Giampaolo, resides in Torrington, Connecticut.

8. Mr. Giampaolo suffers from Post-Traumatic Stress Disorder.

9. Defendant Elevator Service Co., Inc. sells, services and maintains residential and commercial elevators with a principal place of business in Torrington, Connecticut.

10. At all relevant times discussed herein, ESCO was Mr. Giampaolo's employer within the meaning of CFEPa.

III. EXHAUSTION OF ADMINISTRATIVE REMEDIES

11. The plaintiff filed a complaint with the Connecticut Commission on Human Rights and Opportunities (“CHRO”) claiming disability discrimination, retaliation, and a hostile work environment based on disability. The complaint was dual filed with the federal Equal Employment Opportunity Commission (“EEOC”).

12. The CHRO complaint was filed promptly insofar as it was filed within 180 days of the defendant’s last discriminatory act against the plaintiff.

13. The plaintiff received Releases of Jurisdiction from the CHRO, dated January 15, 2019.

14. The plaintiff has filed this Complaint within 90 days of his receipt of the Releases of Jurisdiction from the CHRO and EEOC.

IV. STATEMENT OF FACTS

A. ESCO PROMOTED MR. GIAMPAOLO TWICE AS HE PROVED SALES ACUMEN BY INCREASING REVENUE NEARLY 30%.

15. ESCO hired Mr. Giampaolo in February 2015 to execute maintenance and repair contracts. In less than six months, however, ESCO recognized Mr. Giampaolo’s sales abilities and promoted him to Account Executive. Shortly thereafter, his contributions to the company’s bottom line were so significant ESCO asked him to manage the team and promoted him again to Sales Manager in March 2017.

16. Under Mr. Giampaolo’s leadership, ESCO’s revenue increased nearly 30%. ESCO recognized Mr. Giampaolo’s value to the company by increasing his responsibilities. The company made Mr. Giampaolo a central player in hiring decisions and allowed him full autonomy over his sales team.

17. ESCO also acknowledged Mr. Giampaolo's contributions to the company by regularly paying him substantial commissions, which equated to more than 50% of his annual income.

18. During this period of time, Mr. Giampaolo's relationship with ESCO Owner Steven Roth was akin to that of a family member. He viewed Mr. and Mrs. Roth as parental figures and wanted to devote the rest of his career to working for their company.

B. MR. GIAMPAOLO AND HIS FAMILY ARE VICTIMS OF THE MASS SHOOTING IN LAS VEGAS THAT LEFT 58 CONCERTGOERS DEAD.

19. On or about October 1, 2017, the Giampaolo family attended the Route 91 Harvest Musical Festival, an event they had attended for the past three years. They were enjoying the country music and the warm desert night when suddenly gun shots rang out from a neighboring hotel. The shooter took aim at the concertgoers beneath him in an open field with massive stage lights beaming down on them.

20. Mr. Giampaolo was standing right next to his father-in-law, Kurt, when Kurt was shot to death. Mr. Giampaolo's wife's aunt Deanne and cousin Araina were also shot. At first, it was hard for Mr. Giampaolo to process what was happening. But once reality set in, Mr. Giampaolo sprang into action. He created a human shield with his body, trying to cover his family members as best he could from the gun shots. He and his wife Jessica used a phone charger and belt to try to staunch the bleeding from Araina and Deanne's gunshot wounds, working as quickly as possible in between rounds of active shooting. Eventually, Mr. Giampaolo and his wife carried Kurt, Araina, Deanne and his mother in law Mary Jo to nearby bleachers where they cowered underneath until the shooting finally stopped.

21. Mr. Giampaolo could not return to work immediately as he had planned. In the ensuing days Mr. Giampaolo's family were interviewed by Las Vegas police and received medical

treatment. The police would not release the body of Mr. Giampaolo's father-in-law immediately. Then, burial arrangements had to be made. Finally, as soon as he was able, Mr. Giampaolo took a flight home to get back to work. He returned to work around October 17, 2017.

22. Before Mr. Giampaolo returned to work, he shared with ESCO's owners that he and members of his family were survivors of the mass shooting, that his father-in-law had been shot killed within inches of him, his aunt and cousin had been shot, and they, along with his mother in law, had all been admitted to the hospital as a result of their gunshot wounds and trauma.

23. Upon his return home, Mr. Giampaolo began experiencing panic attacks, nightmares and insomnia, symptoms he had never experienced before. He consulted with a psychiatrist and psychologist for the first time in his life and they diagnosed him with PTSD as a result of the mass shooting.

24. Mr. Giampaolo's PTSD is severe and includes extreme panic. He is frequently anxious, and when his anxiety is heightened his instinctive reaction is to flee to get away from the triggering event, just as he did from the gunfire.

C. MR. GIAMPAOLO SHARED HIS PTSD DIAGNOSIS WITH ESCO OWNERS SHORTLY AFTER HE RETURNED TO WORK.

25. Although he struggled with his PTSD symptoms, Mr. Giampaolo did not miss a beat at work. He sold elevators, closed deals and continued to successfully lead his team. To accommodate his work demands, he scheduled therapy sessions during lunch hours or at the very end of the day.

26. ESCO ownership and employees knew that Mr. Giampaolo was treating with a therapist because of the mass shooting.

27. In November 2017, Mr. Giampaolo and several ESCO employees attended the HOBI Awards at the Aqua Turf Club. The event welcomed 880 housing industry professionals.

28. In the evening, the lights went out, strobe lights beamed through the massive ballroom and music filled the air. This event, which was fun and exciting for everyone else, was terrifying for Mr. Giampaolo.

29. As Mr. Giampaolo's anxiety mounted, he informed Mr. and Mrs. Roth that he had been diagnosed with PTSD as a result of the mass shooting and explained to them that the bright lights, crowds and strobe lights were causing him anxiety and he needed to leave immediately.

**D. AFTER HE SHARED HIS PTSD DIAGNOSIS, ESCO OWNERSHIP
SUBJECTED MR. GIAMPAOLO TO ABUSIVE TREATMENT, TOLD
HIM HE HAD A "BAD ATTITUDE," WAS "DIFFERENT" AND HAD A
"GOD COMPLEX."**

30. After the Aqua Turf event, ESCO leadership's attitude toward Mr. Giampaolo morphed from warm support to outright hostility.

31. In a text message to a mutual friend sent weeks after the Aqua Turf event, Samantha Waldt, who is Mr. and Mrs. Roth's daughter and ESCO's Customer Service Manager, said Mr. Giampaolo was walking around with an "entitled vibe/God complex."

32. Mr. and Mrs. Roth regularly accused Mr. Giampaolo of being "different" and reproached him for having a "bad attitude," criticism he never heard before. ESCO Ownership and subordinates made Mr. Giampaolo feel like he was damaged goods.

33. Mr. Giampaolo's colleagues and supervisors were well aware that he had to leave work to attend therapy sessions weekly. Even though he scheduled those appointments as late in the day as possible, each time he would get ready to depart for a session, colleagues and supervisors would roll their eyes and comment: "You are leaving already?"

E. BEFORE THE MASS SHOOTING, MORE THAN HALF OF MR. GIAMPAOLO'S COMPENSATION CAME FROM HIS COMMISSIONS. AFTER THE MASS SHOOTING, MR. ROTH SLASHED MR. GIAMPAOLO'S COMMISSIONS.

34. Mr. Giampaolo tried to continue contributing to ESCO's success, but as leadership at ESCO intensified its criticism and scrutiny of him, he struggled emotionally and physically. Then ESCO hit him in the only place left to hurt: his wallet.

35. More than 50% Mr. Giampaolo's compensation are the commissions he received from selling residential elevators.

36. Mr. Giampaolo's commissions were tied to ESCO's "Cost Calculator." After a contract is signed, the Cost Calculator is generated by ESCO through a Microsoft Excel spreadsheet. The Cost Calculator requires input of various fields such as labor hours, part prices, amount paid by customer, etc., depending on the specs of a given job.

37. The Cost Calculator generates a commission to be paid to the salesperson responsible for each contract using the numbers in the various fields. As the Sales Manager, Mr. Giampaolo reviewed the Cost Calculators, approved them and submitted them for payment.

38. Immediately following the mass shooting, Mr. Roth reduced Mr. Giampaolo's commissions twice by manipulating the numbers in the fields of the Cost Calculator. Both times, Mr. Giampaolo learned of his reduction in commission when he returned to his desk and saw the Cost Calculator form, marked up by Mr. Roth in red ink, on his chair.

F. MR. GIAMPAOLO INQUIRED ABOUT WHY HIS COMMISSIONS WERE BEING REDUCED. MR. ROTH TOLD HIM: "OCTOBER HAS COME AND GONE, YOU NEED TO GET OVER IT." AFTERWARD, ESCO SLASHED MR. GIAMPAOLO'S COMMISSIONS AND GUTTED HIS MANAGERIAL DUTIES.

39. After the second reduction, Mr. Giampaolo requested a meeting with Mr. Roth to determine the reason for the reduction in his commissions.

40. Instead of responding to his question, Mr. Roth told Mr. Giampaolo his “attitude has changed” since the mass shooting. He then admonished him: “October has come and gone, you need to get over it,” referring to the Las Vegas massacre.

41. Shortly thereafter, ESCO stripped Mr. Giampaolo of his core job duties.

42. As the Sales Manager, Mr. Giampaolo was responsible for hiring employees in Sales. In February 2017, for example, Mr. Giampaolo spearheaded every aspect of the hiring of a new member of the sales team and an Architectural Specialist, from posting the job, recruiting, interviewing and extending an offer for each position.

43. Yet in mid-March 2018, ESCO hired a sales representative – who would be reporting to Mr. Giampaolo -- without involving Mr. Giampaolo at all.

44. On April 10, 2018, when Mr. Giampaolo returned to his desk he found yet another Cost Calculator littered with red ink in which his commission was reduced.

45. By that date, Mr. Giampaolo’s commissions had been reduced at least a half dozen times since he announced his PTSD diagnosis. As the reduction in Mr. Giampaolo’s commission increased in frequency and amount, Mr. Giampaolo feared for his livelihood and his ability to support his wife and two young sons.

G. MR. GIAMPAOLO COMPLAINED ABOUT THE ABUSIVE WORK ENVIRONMENT TO WHICH THE COMPANY SUBJECTED HIM FOLLOWING MASS SHOOTING; THE NEXT DAY, ESCO DEMOTED HIM AND SAID HE HAD A “PERSONALITY DISORDER.”

46. On April 10, 2018, shortly after he discovered that Mr. Roth reduced his commissions once again, Mr. Giampaolo met with Mr. Roth, asked why his commission had been reduced, and used an expletive to describe the reduction. Instead of providing an explanation for the reduction, Mr. Roth demanded Mr. Giampaolo leave the building and Mr. Giampaolo complied.

47. Later that evening, Mr. Giampaolo sent an e-mail to Mr. Roth in which he confirmed that Mr. Roth asked him to leave the building and asked Mr. Roth when he could return. Mr. Roth responded to that email by stating that he asked Mr. Giampaolo to leave based on his “unruliness, insubordination and threatening demeanor” to which Mr. Giampaolo responded as follows:

My threatening demeanor? Was me telling you that you cutting my commission by 500.00 bullshit, threatening to you? I sincerely apologize if the truth that you taking food off my table is complete bullshit but that is how I feel but in no way was my demeanor ever threatening. You know what’s sad is that we have gotten to this place where now someone I looked up to as a mentor and a father figure has allowed his greed and his own goals to become more important than that of his teams.

48. Mr. Giampaolo emphasized in his e-mail that instead of Mr. Roth showing him empathy for the tragedy he and his family had just endured, he had made Mr. Giampaolo’s work environment “miserable” and retaliated against him for the mental health issues from which he suffered as a result of that tragedy:

Your lack of empathy for me and my family has been noted. Never once have you asked how I am. How am I doing or have just pulled me off to the side and asked if I needed to talk. Instead you attack me where it hurts the most. My pockets. Worst of all you once sat me in your office and told me October has come and gone and I needed to get over it.

49. Mr. Giampaolo also referenced Mr. Roth’s repeated admonishments to him that he had “changed” since the mass murder:

I’m sorry we are here now. I really did want to be like you. I couldn’t wait to get to work first and be the last one to leave. You think I changed? I think you changed.

50. Less than 15 minutes into the work day on April 11, Mr. Roth called Mr. Giampaolo into a meeting with the other ESCO owners, Linda Roth and Paul Farnsworth.

51. During that meeting, Mr. Roth berated Mr. Giampaolo for his “terrible attitude” and “lack of focus.” Mr. Giampaolo again expressed that his work environment drastically changed for the worse since he returned from the mass shooting in Las Vegas.

52. Mrs. Roth, who, upon information and belief, had been diagnosed with breast cancer but was now cancer-free, analogized between the massacre that killed 58 people and her cancer diagnosis. She bragged to Mr. Giampaolo that she “got over cancer and came back to work.” She told him she “sucked it up and you should do the same.” As she berated him, Mrs. Roth likened his attitude to that of Dr. Jekyll and Mr. Hyde and accused him of having a “personality disorder.” She then stormed out of the office, slamming the door behind her.

53. After Mrs. Roth lambasted Mr. Giampaolo, Mr. Roth sat back in his chair, folded his arms and, while laughing, stated, “You really pissed her off.” He then accused Mr. Giampaolo of “missing things,” an accusation belied by his work performance.

54. During the meeting, Mr. Giampaolo asked Mr. Roth if he intended to fire him. Mr. Roth looked at co-owner Paul Farnsworth, and taunted, “What do you think Pauly, should we fire him? Because I’m not going to be able to walk around this building and look at his attitude.” In response, Mr. Farnsworth shook his head to indicate no. Mr. Roth said, “We are going to reduce your role to account executive.”

55. ESCO demoted Mr. Giampaolo effective immediately, stripping him of his managerial status and his Sales Manager bonus opportunities.

56. Mr. Roth reminded Mr. Giampaolo that if he quit, he would not pay earned commissions and threatened him: “if you sit back and don’t produce” in the demoted role, he would not “see a dime” of the commissions the company already owed him.

57. Within 30 minutes of Mr. Roth’s threat, Mr. Giampaolo gathered his belongings and walked out the door.

58. Mr. Giampaolo’s constructive discharge was the product of a concerted campaign by Mr. and Mrs. Roth and their subordinates to force him out after he informed them he was suffering from PTSD. That campaign included:

- Accusing Mr. Giampaolo on a regular basis of being “different and having a “bad attitude”;
- Mocking Mr., Giampaolo each time he left for his weekly therapy appointment;
- Regularly and arbitrarily cutting Mr. Giampaolo’s commissions on which he relied to support his family;
- Stripping Mr. Giampaolo of his core job duties as Sales Manager;
- Demoting Mr. Giampaolo one day after he complained of the “miserable” work environment ESCO perpetuated, the depleted job duties and the cut commissions;
- Admonishing him that: “October [the month of the mass shooting] has come and gone, and you need to get over it”;
- Demanding that Mr. Giampaolo “suck it up” and accusing him of having a “personality disorder;”
- Threatening not to pay Mr. Giampaolo commissions the company already owed to him.

59. Following his demotion and discharge from ESCO, Mr. Giampaolo’s PTSD symptoms worsened. He experienced heightened anxiety, increased hyper arousal and insomnia.

V. **LEGAL CLAIMS**

**FIRST CLAIM FOR RELIEF:
DISABILITY DISCRIMINATION,
IN VIOLATION OF THE CFEPa,
CONN. GEN. STAT. § 46a-60(b)(1)**

60. The Plaintiff incorporates by reference all preceding allegations in this Complaint as if fully pled in this Count.

61. ESCO discriminated against Mr. Giampaolo in the terms, conditions, and privileges of his employment based on his disability.

62. Because of ESCO's conduct, Mr. Giampaolo suffered damages.

**SECOND CLAIM FOR RELIEF:
HOSTILE WORK ENVIRONMENT ON THE BASIS OF DISABILITY,
IN VIOLATION OF THE CFEPa,
CONN. GEN. STAT. § 46a-60(b)(1)**

63. The Plaintiff incorporates by reference all preceding allegations in this Complaint as if fully pled in this Count.

64. Mr. Giampaolo's workplace at ESCO was permeated with discrimination based on disability sufficiently severe or pervasive to alter the terms or conditions of his employment and create a hostile working environment.

65. Because of ESCO's conduct, Mr. Giampaolo suffered damages.

**THIRD CLAIM FOR RELIEF:
RETALIATION, IN VIOLATION OF THE CFEPa,
CONN. GEN. STAT. § 46a-60(b)(4)**

66. The Plaintiff incorporates by reference all preceding allegations in this Complaint as if fully pled in this Count.

67. Mr. Giampaolo opposed an unlawful employment practice under the CFEPa, namely, the creation of a hostile work environment based on disability.

68. Mr. Giampaolo's opposition to discrimination was a motivating factor in ESCO's decision to take one or more adverse employment actions against him.

69. Because of ESCO's conduct, Mr. Giampaolo suffered damages.

CLAIM FOR RELIEF

WHEREFORE, the Plaintiff respectfully prays this Court award these damages
from the Defendant:

- a. Economic damages;
- b. Compensatory damages;
- c. Attorneys' fees and costs; and
- d. Any other remedy that may appear to be just and proper.

**RESPECTFULLY SUBMITTED,
THE PLAINTIFF**

By: _____


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